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March 23, 2010

Via ECF

Honorable William D. Wall
United States Magistrate District Judge
100 Federal Plaza, PO Box 9014
Central Islip, New York 11722-9014

Re: Arthur C. Vandergucht v. Winter Harbor Brands
Vessel: BAYHEAD and GREAT PACONIC
08 CV 2439 (LDW) (WDW)
D/A: 8/23/07
Our File#: S2361.08

Dear Judge Wall:

We represent plaintiff in this matter, and wish to provide a status report to the Court. This case involves a Jones Act claim by plaintiff for two separate injuries. One to his eye and one to his arm and back, which occurred on different dates, and on different vessels. At a January 27, 2010 mediation the parties agreed to a settlement. However we have not been able to consummate the settlement because an issue has arose as to whether a Medicare Set Aside ("MSA") is required under these circumstances because plaintiff had applied for Social Security Disability, but was rejected and is appealing.

Plaintiff's position is that an MSA is not needed. The defendants are currently researching this matter, and have consulted experts in the field. As Your Honor may know this is a relatively new issue that has arisen and there is much confusion with respect to the needs for MSA in Jones Act cases.

We would therefore respectfully request that the Court allow us another 60 days, to resolve this issue, execute releases and consummate the settlement.

We thank the Court for its assistance, and remain

Respectfully yours,
Tabak, Mellusi & Shisha LLP

Jacob Shisha

JS/kf

Cc: Mr. Arthur Vandergucht